

1992

# Cynthia Williams v. Kenneth R. Shannon : Brief of Appellee

Utah Court of Appeals

Follow this and additional works at: [https://digitalcommons.law.byu.edu/byu\\_ca1](https://digitalcommons.law.byu.edu/byu_ca1)



Part of the [Law Commons](#)

Original Brief Submitted to the Utah Court of Appeals; digitized by the Howard W. Hunter Law Library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah; machine-generated OCR, may contain errors.

Robert W. Hughes; Attorney for Appellee.

Kenneth R. Shannon; Appellant Pro Se.

---

## Recommended Citation

Reply Brief, *Williams v. Shannon*, No. 920424 (Utah Court of Appeals, 1992).

[https://digitalcommons.law.byu.edu/byu\\_ca1/4379](https://digitalcommons.law.byu.edu/byu_ca1/4379)

This Reply Brief is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Court of Appeals Briefs by an authorized administrator of BYU Law Digital Commons. Policies regarding these Utah briefs are available at

[http://digitalcommons.law.byu.edu/utah\\_court\\_briefs/policies.html](http://digitalcommons.law.byu.edu/utah_court_briefs/policies.html). Please contact the Repository Manager at [hunterlawlibrary@byu.edu](mailto:hunterlawlibrary@byu.edu) with questions or feedback.

UTAH COURT OF APPEALS  
DOCKET

UTAH

DEPT. OF CORRECTIONS

K. J.

50

.A10

DOCKET NO.

920424

---

THE UTAH COURT OF APPEALS

---

CYNTHIA WILLIAMS, )

Plaintiff/Appellee, )

vs. )

Case No. 920424-CA

KENNETH R. SHANNON, )

Defendant/Appellant. )

Priority No. 1

---

REPLY BRIEF

---

ROBERT W. HUGHES  
Suite 420  
7050 South Union Park Avenue  
Midvale, Utah 84047  
Telephone: (801) 566-3688

KENNETH R. SHANNON  
Inmate No. 16854  
P. O. Box 250  
Draper, Utah 84020

ATTORNEY FOR PLAINTIFF/APPELLEE

DEFENDANT/APPELLANT PRO SE

SEP 28 1992

Mary T Noonan  
Clerk of the Court  
Utah Court of Appeals

---

THE UTAH COURT OF APPEALS

---

CYNTHIA WILLIAMS,	)	
Plaintiff/Appellee,	)	
vs.	)	Case No. 920424-CA
KENNETH R. SHANNON,	)	
Defendant/Appellant.	)	

---

REPLY BRIEF

---

ROBERT W. HUGHES  
Suite 420  
7050 South Union Park Avenue  
Midvale, Utah 84047  
Telephone: (801) 566-3688

KENNETH R. SHANNON  
Inmate No. 16854  
P. O. Box 250  
Draper, Utah 84020

ATTORNEY FOR PLAINTIFF/APPELLEE

DEFENDANT/APPELLANT PRO SE

## TABLE OF CONTENTS

	<u>Page</u>
Statement of Jurisdiction of Appellate Court . . . . .	1
Pending Statement of the Issues . . . . .	1
Facts . . . . .	1
Statement of the Case . . . . .	3
Summary of the Argument . . . . .	3
Argument . . . . .	4
I. . . . .	4
II. . . . .	4
III. . . . .	5
Conclusion . . . . .	6
Certificate of Mailing . . . . .	7

Robert W. Hughes #1573  
Attorney for Plaintiff  
7050 So. Union Park Avenue  
Suite 420  
P.O. Box 57005  
Salt Lake City, UT 84157-0005  
Telephone: (801) 566-3688

---

THE UTAH COURT OF APPEALS

---

CYNTHIA WILLIAMS,	)	
Plaintiff/Appellee,	)	
vs.	)	Case No. 920424-CA
KENNETH R. SHANNON,	)	
Defendant/Appellant.	)	

---

REPLY BRIEF

---

STATEMENT OF JURISDICTION OF APPELLATE COURT

Jurisdiction is conferred on this Court pursuant to Article VIII, Section 5, Utah State Constitution and Utah Code Ann. §78-2A-3(2)(h) (1953 as amended).

PENDING STATEMENT OF THE ISSUES

The sole issue presented by the Appellant is whether or not the default Decree of Divorce should be set aside.

FACTS

1. The Plaintiff filed a Complaint for divorce on the 20th day of September, 1991 in the Third District Court in and for Salt Lake County, State of Utah.

2. A copy of the Summons and Complaint was served on the Defendant on or about the 4th day of October, 1991. (A copy

of the Return of Service is attached hereto as Exhibit "A").

3. An Answer to the Plaintiff's Complaint was filed on behalf of the Defendant on or about the 21st day of February, 1992 by David C. Anderson, ATKIN & ANDERSON, as attorney for the Defendant.

4. On or about the 10th day of April, 1992, Mr. Anderson, on behalf of the Defendant, filed a second Answer to Plaintiff's Complaint and also filed a Notice of Withdrawal of Counsel. (A copy of the second Answer and the Notice of Withdrawal of Counsel is attached hereto as Exhibits "B" and "C" respectively).

5. On the 20th day of April, 1992, the Plaintiff had caused a Notice of Appointment of Counsel or Appear in Person to be sent to the Defendant. (A copy of this Notice is attached hereto as Exhibit "D").

6. On or about the 20th day of April, 1992, the Plaintiff prepared and had filed a Certificate of Readiness for Trial. (A copy of the Certificate of Readiness is attached hereto as Exhibit "E").

7. On or about the 4th day of May, 1992, a Notice of Pre-Trial Settlement Hearing was prepared and sent to both the Plaintiff's counsel and the Defendant. (A Copy of the Notice of Pre-Trial is attached hereto as Exhibit "F").

8. The Notice of Pre-Trial Settlement Hearing, in relevant part, the following:

If the domestic calendar clerk has not heard from you within five (5) days from the date of

this Notice, this hearing date will be considered firm; and upon failure to appear, default will be entered.

9. On May 26, 1992, pursuant to the Notice of Pre-Trial, this matter came before the Court.

10. The Plaintiff was present and represented by counsel at the pre-trial hearing.

11. The Defendant was not present nor was he represented by counsel at the pre-trial hearing.

12. Commissioner Michael S. Evans, after reviewing the papers and pleadings on file and finding that Defendant's counsel had withdrawn and that the Defendant failed to appear or appoint new counsel, ruled that Defendant's default be entered and that Plaintiff be awarded her divorce from Defendant. (A copy of the Decree of Divorce is attached hereto as Exhibit "G").

#### **STATEMENT OF THE CASE**

The Appellant has petitioned this Court to set aside the default judgment entered at the pre-trial hearing in the Third Judicial District Court in and for Salt Lake County, State of Utah, Commissioner Michael Evans, presiding.

#### **SUMMARY OF ARGUMENT**

I. Defendant has not provided this Court with sufficient legal or factual justification for the relief sought by reason of his appeal.

II. The Defendant's request to set aside the default Decree of Divorce is procedurally defective pursuant to the

requirements of Rules 55 and 60(b) of the Utah Rules of Civil Procedure.

III. The Defendant's request for a new trial is procedurally defective pursuant to Rule 59 of the Utah Rules of Civil Procedure.

### ARGUMENT

#### I.

Defendant by his appeal is attempting to have this Court set aside the default Decree of Divorce entered at the pre-trial hearing. Defendant, however, does not provide to this Court any factual basis to justify the relief he is seeking.

A party who seeks to have a default judgment set aside must proffer some defense of at least sufficient ostensible merit to justify a trial. See Downey State Bank v. Mayor-Blakeney Corp., 545 P.2d 507 (Utah 1976); Facis v. Jones, 714 F.Supp. 1504 (D. Utah 1989).

The Defendant does not dispute that he received the Notice to Appoint New Counsel. The Defendant does not allege that he did not receive the Notice of Pre-Trial Settlement Conference. The Defendant has not provided this Court with a defense nor has he alleged any circumstances or facts which would justify the relief he requests from this Court.

#### II.

Defendant has requested that this Court set aside the default Decree of Divorce between the Plaintiff and Defendant. The Defendant, however, has failed to comply with the



provisions of the Utah Rules of Civil Procedure governing a request to set aside a judgment or decree.

Rule 55(c) of the Utah Rules of Civil Procedure provides:

For good cause shown, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set aside in accordance with Rule 60(b).

Rule 60(b) provides that on Motion and upon such terms as are just, the trial court may in the furtherance of justice, relieve a party or his legal representative from a judgment, order, or proceeding for the reason enumerated in Rule 60.

The Defendant in the present action failed to move the trial court to set aside the default Decree of Divorce.

It has been held that once a default judgment has been entered, it can only be set aside in accordance with the Utah Rules of Civil Procedure. See Calder Bros. Co. v. Anderson, 652 P.2d 992 (Utah 1982); Amica Mut. Ins. Co. v. Schettler, 768 P.2d 950, 969 (Utah Court of Appeals 1989); Darrington v. Wade, 161 Adv. Rept. Utah Adv. Rep. 32 (Utah Court of Appeals, 1992).

Since the Defendant has failed to comply with the provisions of the Utah Rules of Civil Procedure, the relief he seeks by his appeal is not available and the Decree of Divorce should be allowed to stand.

### III.

It is pertinent to note, that Defendant, in addition to requesting that the default be set aside, has requested

that this Court rule that he be granted a new trial. Rule 59 of the Utah Rules of Civil Procedure sets forth the requirements for a party seeking a new trial. Rule 59(b) provides: "A motion for a new trial shall be served not later than ten (10) days after the entry of the judgment".

The Defendant did not move the trial court for a new trial within ten (10) days after the entry of the Decree of Divorce. As such, his Petition for a new trial should be rejected. See Meyer v. Bartholomew, 690 P.2d 558 (Utah 1984); Jennings v. Stocker, 652 P.2d 912 (Utah 1992); Burgers v. Maiben, 652 P.2d 1320 (Utah 1982); Corbet v. Corbet, 24 Utah 2d 378, 472 P.2d 430 (1970).

#### CONCLUSION

The Defendant has failed to provide any meritorious reasons or justification for the relief sought by his Petition. Furthermore, it cannot be disputed that the Plaintiff failed to move to set aside the default and failed to move for a new trial pursuant to the applicable provisions of the Utah Rules of Civil Procedure.

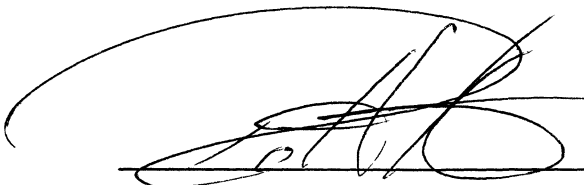
For the reasons set forth above, the Decree of Divorce should be allowed to stand, the Plaintiff should be awarded her costs and attorney's fees incurred in this appeal, and awarded such further relief as determined appropriate by this Court.

DATED this 24<sup>th</sup> day of September, 1992.

  
ROBERT W. HUGHES  
Attorney for Plaintiff/Appellee

**CERTIFICATE OF MAILING**

I hereby certify that I mailed a copy of the foregoing Reply Brief to Kenneth R. Shannon, Inmate No. 16854, P.O. Box 250, Draper, Utah 84020, postage prepaid, this 24<sup>th</sup> day of September, 1992.



# EXHIBIT A

Robert W. Hughes (#1573)  
Attorney for Plaintiff  
7050 South Union Park Avenue, #420  
Midvale, Utah 84047  
Telephone: (801) 566-3688

*Arthur W. Hughes*  
KEN SHANNON served at  
275 E 200 So. SLC, UT. 8/11/91

IN THE DISTRICT COURT THIRD JUDICIAL DISTRICT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

CYNTHIA WILLIAMS,  
Plaintiff,

vs.

KENNETH R. SHANNON,  
Defendant.

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

SUMMONS

Civil No.  
Judge

THE STATE OF UTAH TO THE ABOVE-NAMED DEFENDANT, Kenneth  
R. Shannon.

You are hereby summoned and required to file an answer  
in writing to the attached Complaint with the Clerk of the above-  
entitled Court, and to serve upon, or mail to Robert W. Hughes,  
Plaintiff's attorney, 50 West Broadway #1000, Salt Lake City,  
Utah 84101, a copy of said answer, within 20 days after service  
of this summons upon you.

If you fail so to do, judgment by default will be taken  
against you for the relief demanded in said Complaint, which has  
been filed with the Clerk of said Court and a copy of which is  
hereto annexed and herewith served upon you.

DATED this 26<sup>th</sup> day of September, 1991.

*Robert W. Hughes*  
Robert W. Hughes  
Attorney for Plaintiff

Serve Defendant at:  
1286 Manfield Way  
Draper, Utah 84020

RETURN OF PERSONAL SERVICE

STATE OF UTAH                    )  
                                      )  
COUNTY OF SALT LAKE         )       ss.

I herby certify that I am over 21 years of age and not a party to this action. I certify that on the 25th day of September, 1991, I received a true copy of the Summons and a copy of the complaint on file, and delivered same unto Defendant Kenneth R. Shannon at 275 East 200 South, Slat Lake City, Utah 84111, Salt Lake County, State of Utah on the 4th Day of October, 1991.

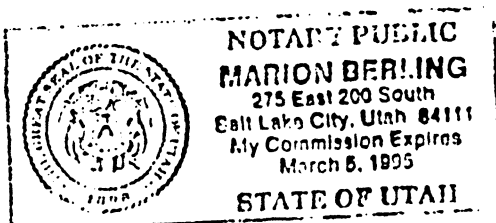
I further certify that at the time of service I endorsed upon the copy served, the date upon which the same was served and signed my name on said document.

DATED this 4<sup>th</sup> day of October, 1991.

FEES:                     

STATE OF UTAH                    )  
                                      )  
COUNTY OF SALT LAKE         )       ss.

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of November, 1991.



Marion Berling  
Notary Public  
Salt Lake County  
Residing at

My Commission Expires:

3-5-1995

# EXHIBIT B

DAVID C. ANDERSON, ESQ. (82)  
ATKIN & ANDERSON  
311 South State Street  
Suite 380  
Salt Lake City, Utah 84111  
(801)521-2552

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR  
SALT LAKE COUNTY, STATE OF UTAH

---

CYNTHIA WILLIAMS,	:	
	:	
Plaintiff,	:	ANSWER
	:	
vs.	:	
	:	
KENNETH R. SHANNON,	:	Case No.
	:	
Defendant.	:	Judge:

---

COMES NOW, the above named Defendant and hereby  
responds to Plaintiff's Complaint as follows:

1. The Defendant admits the allegations contained  
in paragraphs 1, 2, 3, 4, 5, 6, 8.

2. Pertaining to the allegations contained in  
paragraph 7, the Defendant admits an equitable allocation of  
the property acquired during the marriage should occur  
together with an equitable allocation of the debts, further,  
each party should be awarded the property which they brought  
into the marriage as their separate property. To the extent

the foregoing is inconsistent with the allegations contained in paragraph 7, they are denied.

3. The allegations contained in paragraph 9, 11, 14, 15, 16, 17 are denied.

4. Pertaining to the allegations contained in paragraph 12, Defendant admits various debts have been acquired and submits that the Court should equitable determine who should pay any such debts, therefore the allegations to the extent not admitted, are denied.

5. The allegations contained in paragraph 13 are admitted.

6. Pertaining to the allegations contained in paragraph 18, although the Defendant may not have an objection to a mutual restraining order, the restraining order sought in paragraph 18 exceeds reasonable and appropriate boundaries in terms of his right of contacting his friends or others and to that extent is denied.

WHEREFORE, Defendant having responded to the Complaint requests that any relief afforded in this matter be consistent with the foregoing Answer.

DATED this 10 day of April, 1992.



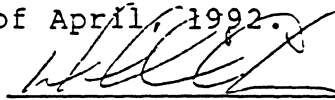
DAVID C. ANDERSON  
Attorney for Defendant

MAILING CERTIFICATE

I hereby certify that I mailed a copy of the foregoing Answer to:

Robert W. Hughes, Esq.  
Attorney for Plaintiff  
7050 South Union Park Ave.  
Suite 420  
Midvale, Utah 84047

postage prepaid this 10 day of April, 1992.





# EXHIBIT C

DAVID C. ANDERSON, ESQ. (82)  
ATKIN & ANDERSON  
Attorney for  
311 South State Street  
Suite 380  
Salt Lake City, Utah 84111  
(801) 521-2552

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR  
SALT LAKE COUNTY, STATE OF UTAH

CYNTHIA WILLIAMS,

Plaintiff,

vs.

KENNETH R. SHANNON,

Defendant.

NOTICE OF WITHDRAWAL  
OF COUNSEL

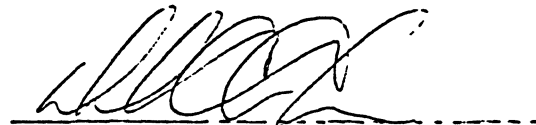
Case No. *914903851*  
Judge *Judge Sawaya*

NOTICE IS HEREBY GIVEN TO:

KENNETH R. SHANNON

PLEASE TAKE NOTICE, that David C. Anderson, of ATKIN  
& ANDERSON, hereby withdraws as counsel of record for the  
above named Defendant.

DATED this 9 day of April, 1992.



DAVID C. ANDERSON

MAILING CERTIFICATE

I hereby certify that I mailed a copy of the foregoing Notice of Withdrawal of Counsel to

Robert W. Hughes, Esq.  
Attorney for Plaintiff  
7050 South Union Park Ave.  
Suite 420  
Midvale, Utah 84047

Kenneth R. Shannon  
Inmate No. 16854  
P.O. Box 250  
Draper, Utah 84020

postage prepaid this 10<sup>th</sup> day of April, 1992.

Catie Cassan...

EXHIBIT 3

ROBERT W. HUGHES #1573  
Attorney for Plaintiff  
7050 South Union Park Avenue  
Suite 420  
P.O. Box 57005  
Salt Lake City, Utah 84157  
Telephone: (801) 566-3688

---

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR  
SALT LAKE COUNTY, STATE OF UTAH

---

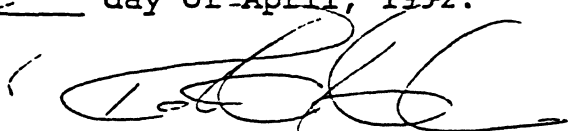
CYNTHIA WILLIAMS,	)	
Plaintiff,	)	NOTICE TO APPOINT
	)	COUNSEL OR APPEAR
vs.	)	IN PERSON
KENNETH R. SHANNON,	)	Civil No. 914903851
Defendant.	)	Judge James Sawaya

---

TO THE ABOVE-NAMED DEFENDANT:

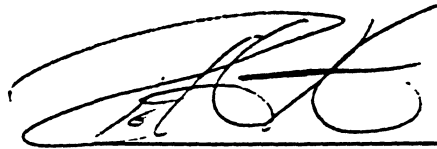
Notice is hereby given pursuant to the Code of  
Judicial Administration for the Courts of Utah for Defendant to  
appoint counsel or appear in person within ten (10) days of the  
date hereof.

DATED this 20<sup>th</sup> day of April, 1992.

  
\_\_\_\_\_  
ROBERT W. HUGHES  
Attorney for Plaintiff

CERTIFICATE OF MAILING

I hereby certify that I mailed a copy of the foregoing Notice to Appoint Counsel or Appear in Person to David C. Anderson, Suite 380, 311 South State Street, Salt Lake City, Utah 84111, and Kenneth R. Shannon, Inmate No. 16854, P. O. Box 250, Draper, Utah 84020, postage prepaid, this 20<sup>th</sup> day of April, 1992.

A handwritten signature in dark ink, appearing to be 'RK' with a large loop, is written above a horizontal line.

willshan.not

# EXHIBIT E

ROBERT W. HUGHES #1573  
Attorney for Plaintiff  
7050 So. Union Park Avenue  
Suite 420  
P.O. Box 57005  
Salt Lake City, UT 84157-0005  
Telephone: (801) 566-3688

---

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR  
SALT LAKE COUNTY, STATE OF UTAH

---

CYNTHIA WILLIAMS,	)	
Plaintiff,	)	CERTIFICATE OF
	)	READINESS FOR TRIAL
vs.	)	
KENNETH R. SHANNON,	)	Civil No. 914903851
Defendant.	)	Judge James Sawaya

---

ROBERT W. HUGHES, attorney for Plaintiff, CYNTHIA WILLIAMS, by his signature below hereby certifies that in his judgment this case is ready for trial and in support of such certification counsel represents to the Court as follows:

1. That all required pleadings have been filed and the case is at issue to all parties.
2. That counsel has completed all discovery; that opposing counsel have had reasonable time to pursue discovery; and that all discovery of record has been completed.
3. That if medial testimony is contemplated or required, copies of all existing medial reports have been made available to all counsel or parties of record.

4. That there are no motions that have been filed which remain pending and upon which no disposition has been made.

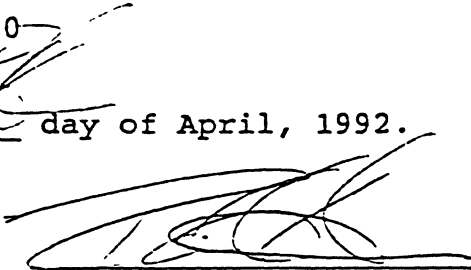
5. That reasonable discussions to effect settlement have been pursued by counsel and their clients but no settlement has been effected. (Such discussions are to be realistic in nature and not limited to an responded to offer. The duty to effectively negotiate lies with all parties).

6. Jury trial is waived. If demanded, \$50.00 fee to be enclosed.

Counsel further hereby certifies that the following counsel or pro se parties of record were furnished with a copy of this certificate on the 25<sup>th</sup> day of April, 1992, whose last known addresses and telephone numbers are as follows:

Kenneth R. Shannon  
Inmate No. 16854  
P. O. Box 250  
Draper, Utah 84020

DATED this 25<sup>th</sup> day of April, 1992.

  
ROBERT W. HUGHES  
Attorney for Plaintiff

NOTICE TO ALL PARTIES

Any objections to the above certification or any disagreement to any of the matters certified are to be filed in writing with the court within ten days of the date hereof, served upon all parties, and notices up for hearing upon the law and motion calendar.

The foregoing Certificate is to be use din the Third Judicial District Court as the Request for Trial Setting provided for in Rule 4.1 of the Rules of Practice of the District and Circuit Courts, effective March 1, 1982.

BY THE COURT

LAW OFFICE  
OF  
MICHAEL S. EVANS

**In the District Court of the Third Judicial District  
In and for Salt Lake County, State of Utah**

CYNTHIA WILLIAMS

Plaintiff

vs.

KENNETH R SHANNON

Defendant

**Notice of Pre-Trial  
Settlement Hearing**

Civil No. 914903851

The court has set a pre-trial settlement hearing on this case as follows:

Judge: COMM MICHAEL S EVANS

Date: May 26, 1992

Time: 10:00 am

Circuit courtroom 340

Counsel as well as both clients are to be present so that if settlement is reached, the divorce may be granted at this hearing.

If the domestic calendar clerk has not heard from you within five (5) days from the date of this notice, this hearing date will be considered firm; and upon failure to appear, default will be entered.

Counsel are required to submit to the domestic calendar clerk a written settlement proposal five (5) days prior to the pre-trial settlement hearing and to opposing counsel.

The Financial Declaration forms for both plaintiff and defendant must be filed with the domestic calendar clerk at least five (5) days prior to pre-trial settlement hearing. Failure of counsel to supply the required financial information may result in the matter being stricken. If only one party responds, then that party's statement will be deemed as true, and the court may enter its order accordingly.

In the event a matter is stricken, the court will notify both counsel and their clients as to the reasons therefor.

If settlement is reached prior to hearing, then the court at the time of the pre-trial settlement hearing may grant the divorce requested on a proper showing as though a default matter.

Both counsel are required to follow Utah Rules of Civil Procedure in providing the address of their clients to the court and to each other at the time of the filing of Complaint; and if not done so, on receipt of this document.

Copies of this notice were mailed to the following attorneys and/or parties at the addresses indicated:

ROBERT W HUGHES, 7050 S Union Park Ave, Ste 420, PO BOX 57005

SLC, UT 84157-0005

KENNETH R SHANNON, INMATE # 16854, PO BOX 250, Draper, Ut 84020

Dated this 4th day of May, 19 92.

Michael S Evans

District Judge



# EXHIBIT G

Robert W. Hughes #1573  
Attorney for Plaintiff  
7050 So. Union Park Avenue  
Suite 420  
P.O. Box 57005  
Salt Lake City, UT 84157-0005  
Telephone: (801) 566-3688

---

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR  
SALT LAKE COUNTY, STATE OF UTAH

---

CYNTHIA WILLIAMS,	)	
Plaintiff,	)	DECREE OF DIVORCE
vs.	)	
KENNETH R. SHANNON,	)	Civil No. 914903851DA
Defendant.	)	Judge James S. Sawaya

---

The above-styled matter came on, after notice to the parties, regularly for a Pre-Trial Settlement Conference before Commissioner Michael S. Evans, on Tuesday, the 26th day of May, 1992 at the hour of 10:00 a.m. Plaintiff appeared in person and was represented by her attorney of record, Robert W. Hughes. Defendant did not appear, nor was he represented by counsel after notice to do so.

The Court having reviewed the pleadings and papers on file herein and finding that Defendant's counsel had withdrawn and Defendant having failed to appear or appoint new counsel, Defendant's default shall be and is hereby entered, the Plaintiff was sworn and testified, and the Court having

previously made and entered its Findings of Fact and Conclusions of Law, hereby:

ORDERS, ADJUDGES AND DECREES as follows:

1. The bonds of matrimony and the marriage contract heretofore existing by and between the Plaintiff and Defendant be, and the same are hereby dissolved, and the Plaintiff is hereby awarded a Decree of Divorce from Defendant upon the grounds of irreconcilable differences, said Decree to become absolute and final upon entry by the Court in the Register of Actions.

2. Neither party shall be awarded alimony.

3. The parties acquired an interest in real property located at 1286 Manfield Way, Draper, Utah and certain items of personal property, including vehicles, jewelry, clothing, household furniture, fixtures, and appliances. Since the filing of Plaintiff's Complaint, the real property was foreclosed upon, the parties' vehicles repossessed, and the remaining items of personal property divided. The personal property shall be awarded to the party who now has possession of such personal property, subject to any and all indebtedness thereon.

4. Defendant acquired interest in a business. Plaintiff's name shall be removed from all corporate documents and Plaintiff shall be relieved of all corporate responsibilities and held harmless from all corporate obligations.

5. Defendant shall be required to pay to Plaintiff all amounts borrowed from Plaintiff's retirement and/or pension

accounts.

6. The parties have acquired various debts and obligations. Defendant shall be responsible for, and hold Plaintiff harmless therefrom, the following debts and obligations: Chevy Chase credit card account, Mountain America VISA credit card, Zions Bank loans and credit accounts, Credit Card Center accounts, Colonial Mastercard account, Rocky Mountain VIA credit card, Defendant's VISA account, Citicorp Mastercard, Citicorp VISA, Discover credit card, First Card account, First Security credit line and account, Draper Bank accounts, Westone Bank accounts, First Security VISA, First Interstate VISA, American Express, Costco account, Security Pacific Bank accounts, John Deere account, HRSI account, Lennox Air Conditioning obligation, US West loan, The Bob Myers loan, ARA Leisure Services, Joyce Maxfield horse account, Coffee Plus loans, Prestigious loans, Chevron Oil, Texaco, Citgo, Sinclair Oil, Phillips Oil, Fred Myers, Mortgage First, R. C. Willey, Lone Peak Hay, Chem Lawn, medical bills, property taxes, Mervyns, state and local property taxes, Bill Williams loan, Nordstroms account, Nancis account, Sears account, and ZCMI account. The payment of the above debts and obligations shall be considered in the nature of support and non-dischargeable in bankruptcy.

7. Each party shall be awarded, as separate property, their respective retirement and/or pension accounts.

8. Plaintiff and Defendant shall bear their own costs

and attorney's fees incurred in prosecuting this action.

9. Each party shall execute and deliver to the other such documents as are required to implement the provisions of this Decree of Divorce.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1992.

BY THE COURT:

\_\_\_\_\_  
District Court Judge

APPROVED AS TO FORM:

\_\_\_\_\_  
KENNETH R. SHANNON, Defendant

CERTIFICATE OF MAILING

I hereby certify that I mailed a copy of the foregoing Decree of Divorce to Kenneth R. Shannon, Inmate No. 16854, P. O. Box 250, Draper, Utah 84020, postage prepaid, this 28<sup>th</sup> day of MAY, 1992.



willshan.dec

Robert W. Hughes #1573  
Attorney for Plaintiff  
7050 So. Union Park Avenue  
Suite 420  
P.O. Box 57005  
Salt Lake City, UT 84157-0005  
Telephone: (801) 566-3688

---

THE UTAH COURT OF APPEALS

---

CYNTHIA WILLIAMS,	)	APPELLEE'S SUPPLEMENT
Plaintiff/Appellee,	)	REPLY BRIEF
vs.	)	Case No. 920424-CA
KENNETH R. SHANNON,	)	
Defendant/Appellant.	)	

---

Appellee, by and through her attorney of record, hereby supplements her Reply Brief as follows:

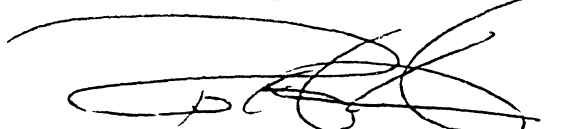
1. Determinative Constitutional Provisions. None.

DATED this 25<sup>th</sup> day of September, 1992.

  
\_\_\_\_\_  
ROBERT W. HUGHES  
Attorney for Plaintiff/Appellee

CERTIFICATE OF MAILING

I hereby certify that I mailed a copy of the foregoing Appellee' Supplement to Reply Brief to Kenneth R. Shannon, Inmate No. 16854, P.O. Box 250, Draper, Utah 84020, postage prepaid, this 25<sup>th</sup> day of September, 1992.

  
\_\_\_\_\_